

Town of Elgin, SC

Stormwater Management Ordinance

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DIVISION 1 – GENERAL PROVISIONS

Sec. 1-1. Title.

This ordinance shall be known as the "Stormwater Management Ordinance of The Town of Elgin, South Carolina.

Sec. 1-2. Authority.

This ordinance is adopted pursuant to the authority conferred upon the Town of Elgin, South Carolina (the "Town") by the South Carolina Constitution, the South Carolina General Assembly and in compliance with the requirements imposed upon the Town by the National Pollutant Discharge Elimination System ("NPDES") Phase II Permit No. SCR035502 issued in accordance with the federal Clean Water Act, the South Carolina Pollution Control Act and regulations promulgated thereunder.

Sec. 1-3. Findings.

The Town of Elgin Council makes the following findings:

(a) Uncontrolled stormwater runoff may have significant, adverse impact on the health, safety and general welfare of The Town of Elgin and the quality of life of its citizens by transporting pollutants into receiving waters and by causing erosion or flooding.

(b) The Town of Elgin is required by federal law [33 U.S.C 1342(p) and 40 CFR 122.26] to obtain a National Pollutant Discharge Elimination System permit from the South Carolina Department of Health and Environmental Control ("DHEC") for stormwater discharges from the Town of Elgin Stormwater System. The NPDES permit requires the Town to impose controls to reduce the discharge of pollutants in stormwater to maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are determined to be appropriate for the control of such pollutants.

(c) Additionally, certain facilities that discharge stormwater associated with an industrial activity, including land disturbing activities, are required to obtain NPDES permits. Also, The South Carolina Stormwater Management and Sediment Reduction Act [S.C. Code 48- 14-10 et seq.] requires a state permit for certain land disturbing activities.

Sec. 1-4. Purpose.

(a) It is the purpose of this ordinance to protect, maintain, and enhance the environment of The Town of Elgin and the short-term and long-term public health, safety, and general welfare of the citizens of the Town of Elgin by establishing requirements and procedures to control the potential adverse effects of increased stormwater runoff associated with both future development and existing developed land. Proper management of stormwater runoff will minimize damage to public and private property, insure a functional drainage system, reduce the effects of development on land and stream channel erosion, attain and maintain water quality standards, enhance the local environment associated with the drainage system, reduce local flooding, reduce pollutant loading to the maximum extent practicable and maintain to the extent practicable the predeveloped runoff characteristics of the area, and facilitate economic development while mitigating associated pollutant, flooding and drainage impacts.

It has been determined that early interaction between the developer/land owner and the Town of Elgin will provide good communication and lead to better opportunities to protect water quality while

maintaining reasonable land development options for the developer/land owner to pursue. Therefore, the Town of Elgin encourages developers/land owners to present development concepts and their associated stormwater management concept plans as early as possible/practical in the land development process.

(b) It is further the purpose of this ordinance to comply with the Federal and corresponding state stormwater discharge (NPDES) regulations (40 CFR 122.26 and SC Regulation 61-9.122.26) developed pursuant to the Clean Water Act and to assure the Town of Elgin of the authority to take any action required by it to obtain and comply with its NPDES permit for stormwater discharges. Among other things, these regulations require the Town of Elgin to establish legal authority which authorizes or enables the Town of Elgin at a minimum to:

(1) Control the contribution of pollutants to the Town of Elgin MS4 and receiving waters by stormwater discharges associated with residential, commercial, industrial, and related facilities activity and the quality of stormwater discharged from sites of residential, commercial, industrial, and related facilities activity; including erosion and sediment control during construction and land disturbance activities.

(2) Reserved

(3) Control the discharge to the Town of Elgin MS4 and receiving waters of spills, dumping or disposal of materials other than stormwater;

(4) Control, through intergovernmental agreements, contribution of pollutants from one municipal stormwater system to another;

(5) Require compliance with conditions in ordinances, permits, contracts or orders; and

(6) Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance and noncompliance with permit conditions.

(c) The application of this Ordinance and the provisions expressed herein shall be the minimum erosion and sediment control and stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by statute. In addition, if site characteristics indicate that complying with these minimum requirements will not provide adequate designs or protection for local property or residents, it is the owner and operator's responsibility to exceed management practices, control techniques and system, design and engineering methods and such other programs and controls as are required by the Town of Elgin's NPDES permit.

(d) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to the Town of Elgin MS4 and to the Waters of the State to assure the obligations under its NPDES permit issued by the Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26.

Sec. 1-5. Construction and Scope

(a) It is the goal of the Town of Elgin's Council that the provisions of this Ordinance will result in reduction of the discharge of pollutants to the Town of Elgin's MS4 and its receiving waters to the maximum extent practicable using management practices, control techniques and system, design and engineering methods and such other programs and controls as are required by The Town of Elgin's NPDES permit.

(b) This Ordinance is to be construed to further its purpose of controlling and reducing pollutant discharges to the Town of Elgin's MS4 and to the Waters of the State to assure the obligations under its NPDES permit issued by the Department of Health and Environmental Control (DHEC) as required by 33 USC 1342 and 40 CFR 122.26.

(c) The application of this Ordinance, the provisions expressed herein, and the Federal and State stormwater regulations shall be minimum erosion and sediment control and stormwater management requirements and shall not be deemed a limitation or repeal of any other ordinances of the Town of Elgin's or powers granted to the Town of Elgin's by the State of South Carolina statutes, including, without limitation, the power to require additional or more stringent stormwater management requirements.

(d) The provisions of this Ordinance shall apply throughout the Town of Elgin's as determined by the Town.

(e) The Storm Water Manager shall be primarily responsible for the coordination and enforcement of the provisions of this Ordinance, the Town of Elgin's Stormwater Management Program, and the Town of Elgin's NPDES Permit.

Sec. 1-6. Severability.

Should any word, phrase, clause or provision of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this ordinance as a whole or any part hereof except that specific provision declared such court to be invalid or unconstitutional.

Section 1-7. Definitions.

For the purpose of this Ordinance, definitions contained in South Carolina regulations 61-9.122.2 and 72-301 are incorporated herein by reference. Where the same words are defined in both the aforementioned regulations, but are not the same, the definitions contained in R. 61-9.122.2 shall be used for the purposes of this Ordinance. Additional terms, phrases and words shall have the meaning given in the Appendix.

Secs. 1-8 – 1-10 Reserved.

DIVISION 2 – ORGANIZATION AND ADMINISTRATION

Sec. 2-1. Regulations.

The Town of Elgin's Council, may, in its discretion, amend or change this Ordinance or adopt additional regulations or resolutions to implement this Ordinance comply with the NPDES permit, implement the Stormwater Management Program ("SWMP"), or to otherwise further the goal of protecting the quality of the waters into which the Town of Elgin's MS4 outfalls flow.

Sec. 2-2. Town of Elgin's Stormwater Management Program.

The Stormwater Management Program developed by the Town to comply with the NPDES Stormwater Permit serves as the basis for the Town of Elgin's program implementation and administration. The SWMP, as amended from time to time by the Town, is hereby adopted for the life of the Town of Elgin's Stormwater System NPDES permit as the official operational Program. The mapping and geographic information system developed as part of the SWMP shall serve as the official authoritative information source for program administration.

Sec.2-3. Coordination with Other Agencies.

The Stormwater Manager shall coordinate the Town's activities with other federal, state, and local agencies, which manage and perform functions relating to the protection of receiving waters. Authority not expressly reserved for other agencies or restricted by statute is placed with the Stormwater Manager for the protection and preservation of receiving waters. The Stormwater Manager shall coordinate with State and Federal Agencies having jurisdiction.

Sec. 2-4. Cooperation with Other Governments.

The Town of Elgin's may enter into agreements with other governmental and private entities to carry out the purposes of this ordinance. These agreements may include, but are not limited to enforcement, resolution of disputes, cooperative monitoring, and cooperative management of stormwater systems and cooperative implementation of stormwater management programs. Nothing in this Ordinance or in this Section shall be construed as limitation or repeal of any ordinances of these local governments or of the powers granted to these local governments by the South Carolina Constitution or South Carolina statutes, including, without limitation, the power to require additional or more stringent stormwater management requirements within their jurisdictional boundaries.

Secs. 2-5 – 2-10 Reserved.

DIVISION 3 – WATER QUALITY CONTROL

Sec. 3-1. Regulations.

a) Federal regulations governing stormwater management, as specified in 40 C.F.R. 122.26, and State regulations, as specified in R. 61-9.122.26 adopted pursuant thereto, the state NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities (permit no. SCR100000) and the technical requirements of state regulations 72.305 and 72.307 are adopted as the minimum requirements for all facilities as defined in the respective regulations.

(b) The Stormwater Manager shall be responsible for day to day coordination, implementation and enforcement of this Ordinance and the SWMP. Without limitation of the foregoing, the Stormwater Manager shall have the following specific powers and duties:

- (1) To issue any permit, certification or license that may be required by the SWMP.
- (2) To deny a facility connection to the MS4 or discharge to Waters of the State if State, Federal, or Stormwater Ordinances and Regulations are not met.
- (3) To approve BMP plans, and to require as a condition of such approvals structural or non-structural controls, practices, devices, or operating procedures, required under the SWMP.
- (4) To require performance bonds of any person to secure that person's compliance with any BMP Plan, permit, certificate, license or authorization issued or approved by the Stormwater Manager pursuant to the SWMP.
- (5) To comply with all Federal and State regulatory requirements, promulgated or imposed pursuant to the Clean Water Act and the SC Stormwater Management Act, applicable to the management of stormwater discharges to or from the Town of Elgin's MS4.

- (6) To conduct all activities necessary to carry out the stormwater management program and other requirements included in the Town of Elgin's NPDES permit, the SWMP and this Ordinance, and to pursue the necessary means and resources required to properly fulfill this responsibility.
- (7) To enter into agreements with other governmental entities or private persons or entities to provide or procure services to conduct and carry out stormwater management activities.
- (8) To maintain the stormwater system consistent with the provisions of the Town of Elgin's NPDES permit, the SWMP and this Ordinance.
- (9) To direct, review and recommend for approval by Town Council the Stormwater Management operating budget.
- (10) To direct, review and recommend for approval by Town Council necessary changes to the existing stormwater management.
- (11) To determine appropriate fees, to impose penalties, and to take necessary and appropriate actions to collect any fee or enforce any penalty assessed pursuant to this Ordinance.

Sec. 3-2. Prohibitions and Exemptions

(a) No person shall (1) develop any land, (2) engage in any industry or enterprise, (3) construct, operate or maintain any landfill, hazardous waste treatment, disposal or recovery facility, or any other industrial or related facility (4) or dispose of any hazardous or toxic substance or other pollutant without having provided for compliance with this Ordinance and with any program, plan, permit, or regulation of the Town of Elgin's Stormwater Management Program (SWMP) adopted in accordance with this ordinance.

(b) The following development activities are exempt from the provisions of this Ordinance.

(1) Construction or improvement of single family residences or their accessory buildings which are separately built and not part of multiple construction of a subdivision development and which are anticipated to disturb an area of less than 5000 square feet are exempted from Sec. 3-2 (a) (1) of this Ordinance.

(2) Land disturbing activities on agricultural land for production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses ponies, mules, or goats, including the breeding and grazing of these animals; bees; fur animals and aquaculture, except that the construction of an agricultural structure of one or more acres, such as broiler houses, machine sheds, repair shops and other major buildings and which require the issuance of a building permit shall require the submittal and approval of a drainage plan prior to the start of the land disturbing activity.

(3) Land disturbing activities undertaken on forestland for the production and harvesting of timber and timber products.

(4) Activities undertaken by persons who are otherwise regulated by the provisions of Chapter 20 of Title 48, the South Carolina Mining Act.

(5) Certain land disturbing activities undertaken by persons who are exempt from the provisions of the Stormwater Management and Sediment Reduction Act as set forth in Section 48-14-40 of the 1976 Code of Laws of South Carolina as amended.

Sec. 3-3. Management Program.

The Stormwater Manager shall implement and conduct the Town's operations according to the Town of Elgin's Stormwater Management Program. The SWMP serves as the basis for compliance with the NPDES Stormwater Permit granted to the Town of Elgin under the provisions of the Water Quality Act of 1987 and 40 C.F.R. 122.26. This Management Program is more fully described in the NPDES Stormwater Permit which defines the terms and conditions of the Town of Elgin's authority to operate its stormwater system. By way of summary only, the Management Program includes the following mandated elements:

- (a) A description of structural and non-structural and source control measures to reduce pollutants from runoff from commercial and residential areas, the "Post-Construction Stormwater Management Program";
- (b) Reserved
- (c) Reserved
- (d) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in stormwater runoff from construction sites to the stormwater system, the "Construction Site Stormwater Runoff Control Program".
- (e) Enforcement of the Town of Elgin's Flood Damage Prevention Ordinance.

Sec.3-4. Design/Engineering Standards.

The Stormwater Manager shall develop, maintain, implement, and enforce such design or engineering standards, as may be required, that are consistent with the Stormwater Management Program and provide a sound technical basis for the achievement of stormwater management and water quality objectives.

Sec. 3-5. Stormwater Management Best Management Practices (BMP) Handbook.

The Stormwater Manager shall require the use of the South Carolina Stormwater Management BMP Handbook (BMP Handbook), as developed by SCDHEC, in accordance with the approved Stormwater Management Program. The BMP Handbook shall serve as guidance for the design, construction, and maintenance of facilities which discharge stormwater. The BMP Handbook will be used to provide, at a minimum, the following information:

- (a) Guidance and specifications for the preparation of erosion and sediment control and stormwater management plans; acceptable techniques for obtaining, calculating and presenting the information required in the plans; and design conditions which must be accounted for.
- (b) Guidance in selecting environmentally sound practices for managing stormwater; description of specific techniques and practices; and the development and use of techniques emphasizing use of natural systems shall be encouraged.
- (c) Minimum specifications for designing, constructing, and maintaining stormwater management facilities. These specifications shall be established in accordance with current good engineering practices.

(d) Minimum easement requirements.

(e) Post-development performance standards for stormwater management facilities and practices (BMPs), and the methodology/criteria for BMPs.

Sec. 3-6. Reserved

Sec. 3-7. Scope of Development Plans

(a) In developing plans for residential subdivisions, individual lots in a residential subdivision development shall be required to obtain and comply with a general permit and the residential subdivision development, as a whole, shall be considered to be a single land disturbing activity requiring a permit. Hydrologic parameters that reflect the ultimate subdivision development shall be used in all engineering calculations. If individual lots or sections in a residential subdivision are being developed by different property owners, all land disturbing activities related to the residential subdivision shall be covered by the approved drainage plan for the residential subdivision. Individual lot owners or developers shall sign a certificate of compliance that all activities on that lot will be carried out in accordance with the approved drainage plan for the residential subdivision. Residential subdivisions which were approved prior to the effective date of these regulations are exempt from these requirements. Development of new phases of existing subdivisions which were not previously approved shall comply with the provisions of these regulations, as well as the applicable portions of the Town of Elgin's zoning ordinance).

(b) For land disturbing activities involving less than one (1) acre of actual land disturbance which are not part of a larger common plan of development or sale, the person responsible for the land disturbing activity shall submit a simplified stormwater management control plan meeting the requirements listed below (for sites >1 acre of disturbed area, see Sec. 3-8 of this Ordinance). This plan does not require approval by the Planning and Zoning Department and does not require preparation or certification by the designers.

(1) A narrative description of the stormwater management facilities to be used.

(2) A general description of topographic and soil conditions of the development site.

(3) A general description of adjacent property and a description of existing structures, buildings, and other fixed improvements located on surrounding properties.

(4) A sketch plan to accompany the narrative which shall contain:

- site location drawing of the proposed project, indicating the location of the proposed project in relation to roadways, jurisdictional boundaries, streams and rivers; the boundary lines of the site on which the work is to be performed;
- all areas within the site which will be included in the land disturbing activities shall be identified and the total disturbed area calculated;
- a topographic map of the site;
- anticipated starting and completion dates of the various stages of land disturbing activities and the expected date the final stabilization will be completed.

- the location of temporary and permanent vegetative and structural stormwater management control measures.
- (5) Stormwater management plans shall contain certification by the persons responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the plan.
- (6) Stormwater management plans shall contain certification by the person responsible for the land disturbing activity of the right of the Stormwater Manager to conduct on-site inspections.
- (c) For land disturbing activities disturbing more than one acre, all of the requirements of a stormwater development plan apply.

Sec. 3-8. Stormwater Concept and Drainage Plans

Stormwater concept and drainage plans will conform to all applicable sections of the Town of Elgin's zoning ordinance).

- (a) A stormwater concept plan for each development shall be submitted for review by the Stormwater Manager prior to submission of the drainage plan and construction plans for the entire development, or any portion thereof.
- (b) All preliminary plats of the development shall be consistent with the stormwater concept plan required in Sec. 3-8 (a) of this Ordinance.
- (c) Upon approval of the concept plan, the applicant shall submit a final drainage plan (as part of the construction plans) to the Stormwater Manager for review and approval; provided that the Stormwater Manager may accept and submit into the review process a stormwater concept plan if it identifies the location and type of facilities to be constructed in sufficient detail to accurately estimate construction costs and the Stormwater Manager determines that a drainage plan is not needed. If accepted under this provision, the stormwater concept plan then becomes the drainage plan for this development.
- (d) Should any drainage plan involve any stormwater management facilities or land to be dedicated to public use, the same information shall also be submitted for review and approval to the department having jurisdiction over the land or other appropriate departments or agencies identified by the Stormwater Manager for review and approval. This drainage plan shall serve as the basis for all subsequent construction.
- (e) The stormwater concept plan may be reviewed, if needed, with the designer, after Town review, where it will either be approved, approved with changes, or rejected. If rejected, changes, additional analysis, or other information needed to approve the next submittal of the concept plan shall be identified. The Town review of the stormwater concept plan will be completed within ten (10) working days from and after the receipt of the plan.
- (f) Within twenty (20) working days from and after the receipt of the drainage plan, the Stormwater Manager shall issue a decision approving, rejecting or conditionally approving the plan with modification.

Sec. 3-9. Permit Requirements

(a) No site-grading permit shall be issued or modified without the following.

- (1) Right of entry for emergency maintenance if necessary.
- (2) Right of entry for inspections.
- (3) Recorded easements for stormwater management facilities.
- (4) Any off-site easements needed.
- (5) An approved stormwater concept plan or drainage plan, as appropriate.
- (6) Evidence of a receipt of all other required permits.

(b) The approved drainage plan shall contain certification by the applicant that all land clearing, construction, development and drainage will be done according to the drainage plan or previously approved revisions. Any and all site grading permits may be revoked at any time if the construction of stormwater management facilities is not in strict accordance with approved plans.

(c) In addition to the plans and permits required from the Town, applicants shall obtain all state and federal permits required for the proposed development.

Sec. 3-10. Minimum Runoff Control Requirements

The minimum stormwater control requirements shall conform with all applicable sections of the Town of Elgin's zoning ordinance); and the South Carolina DHEC Stormwater Management BMP Handbook (BMP Handbook).

Sec. 3-11. Reserved

Sec. 3-12. Drainage Plan Requirements

Drainage plans shall include the following.

- (a) A vicinity map indicating a north arrow, scale, boundary lines of the site and other information necessary to locate the development site.
- (b) The existing and proposed topography of the development site except for individual lot grading plans in single-family subdivisions.
- (c) Physical improvements on the site, including present development and proposed development.
- (d) Location, dimensions, elevations, and characteristics of all stormwater management facilities.
- (e) All areas within the site which will be included in the land disturbing activities shall be identified and the total disturbed area calculated
- (f) The location of temporary and permanent vegetative and structural storm- water management control measures.

- (g) An anticipated starting and completion date of the various stages of land, disturbing activities and the expected date the final stabilization will be completed.
- (h) A determination that the development is in compliance with Kershaw County's Flood Damage Prevention Ordinance.
- (i) Reserved
- (j) Reserved
- (k) Drainage plans shall include designation of all easements needed for inspection and maintenance of the drainage system and stormwater management facilities. As a minimum, easements shall have the following characteristics.
 - (1) Provide adequate access to all portions of the drainage system and structures.
 - (2) Provide sufficient land area for maintenance equipment and personnel to adequately and efficiently maintain the system with a minimum of ten (10) feet along both sides of all drainage ways, streams, channels, ditches, and around the perimeter of all detention and retention facilities, or sufficient land area or equipment access for maintenance of all stormwater management facilities. This distance shall be measured from the top of the bank or toe of the dam whichever is applicable.
 - (3) Restriction on easements shall include prohibiting all fences and structures which would interfere with access to the easement areas and/or the maintenance function of the drainage system.
- (l) To improve the aesthetic aspects of the drainage system, a landscape plan for all portions of the drainage system shall be part of the drainage plan. This landscape plan shall address the following.
 - (1) Tree saving and planting plan.
 - (2) Types of vegetation that will be used for stream bank stabilization, erosion control, sediment control aesthetics and water quality improvement.
 - (3) Any special requirements related to the landscaping of the drainage system and efforts necessary to preserve the natural aspects of the drainage system.
- (m) To prevent water quality degradation and to improve the water quality aspects of the drainage system, the drainage plan shall include best management practices to control the water quality of the runoff during the land disturbing activities and during the life of the development. The drainage plan shall include all engineering calculations needed to design the system and associated structures including pre- and post-development velocities, peak rates of discharge, and inflow and outflow hydro- graphs of stormwater runoff at all existing and proposed points of discharge from the site.
- (n) Description of site conditions around points of all surface water discharge including vegetation and method of flow conveyance from the land disturbing activity.
- (o) Construction and design details for structural controls.
- (p) The expected timing of flood peaks through the downstream drainage system shall be assessed when planning the use of detention facilities.

(q) In determining downstream effects from stormwater management structures and the development, hydrologic/hydraulic engineering studies shall extend downstream to a point as determined by the Stormwater Manager.

(r) All stormwater management facilities and all major portions of the conveyance system through the proposed development (i. e., channels, culverts) shall be analyzed, using the design and 100-year storms, for design conditions and operating conditions which can reasonably be expected during the life of the facility. The results of the analysis shall be included in the hydrologic-hydraulic study.

(s) If the drainage plan and/or design report indicates that there may be a drainage or flooding problem at the exit to the proposed development or at any point downstream as determined by the Stormwater Manager, the Stormwater Manager may require:

(1) water surface profiles plotted for the conditions of pre- and post- development for the 2-year through 100- year design storm;

(2) water surface profiles plotted for the conditions of pre- and post- development for the 100-year design storm;

(3) elevations of all structures potentially damaged by the 2-year through 100-year flows.

(t) All drainage plans submitted for approval shall contain certification by the person responsible for the land disturbing activity that the land disturbing activity will be accomplished pursuant to the approved plan and that responsible personnel will be assigned to the project.

(u) All drainage plans shall contain certification by the person responsible for the land disturbing activity of the right of the Stormwater Manager to conduct on-site inspections.

(v) The drainage plan shall not be considered approved without the inclusion of an approval stamp with a signature and date on the plans by the Kershaw County Department of Public Works. The stamp of approval on the plans is solely an acknowledgement of satisfactory compliance with the requirements of these regulations. The approval stamp does not constitute a representation or warranty to the applicant or any other person concerning the safety, appropriateness or effectiveness of any provision, or omission from the drainage plan.

(w) Approved drainage plans remain valid for two (2) years from the date of an approval. Extensions or renewals of the plan approvals will be granted by the Stormwater Manager upon written request by the person responsible for the land disturbing activity.

Sec. 3-13. Plan Hydrologic Criteria

The hydrologic criteria to be used for the stormwater concept and drainage plans shall be as described in Section 4 (Storm Drainage Design) of Kershaw County's Engineering Standards.

Sec. 3-14 Ownership and Town Participation

(a) All stormwater management facilities shall be privately owned and maintained unless the Town accepts the facility for Town ownership and maintenance. The owner of all private facilities shall grant to the Town, a perpetual, non-exclusive easement which allows for public inspection and emergency repair.

(b) All stormwater management measures relying on designated vegetated areas or special site features shall be privately owned and maintained as defined on the drainage plan.

(c) When the Stormwater Manager determines that additional storage capacity beyond that required by the applicant for on-site stormwater management is necessary in order to enhance or provide for the public health, safety and general welfare, to correct unacceptable or undesirable existing conditions or to provide protection in a more desirable fashion for future development, the Town may:

(1) require that the applicant grant any necessary easements over, through or under the applicant's property to provide access to or drainage for such a facility;

(2) require that the applicant attempt to obtain from the owners of property over, through or under where the stormwater management facility is to be located, any easements necessary for the construction and maintenance of same (and failing the obtaining of such easement the Town may, at its option, assist in such matter by purchase, condemnation, dedication or otherwise, and subject to Sec. 3-14 (c) of this Ordinance, with any cost incurred thereby to be paid by the Town); and/or

(3) participate financially in the construction of such facility to the extent that such facility exceeds the required on-site stormwater management as determined by the Stormwater Manager.

(d) To implement this provision both with the proposed facility that includes the additional storage capacity and jointly develop a cost sharing plan which is agreeable to all parties.

Sec. 3-15 Maintenance, Construction and Inspection

(a) A permanent maintenance plan for each stormwater management facility shall be included in the drainage plan, addressing all requirements of Section 6 (Maintenance) of the Kershaw County's Engineering Standards. As part of the maintenance plan, the owner of such facility shall specifically agree to be responsible for permanent maintenance. In order to transfer maintenance responsibility, a letter of acceptance by the entity accepting permanent maintenance responsibility shall be filed with the Stormwater Manager.

(b) Prior to the approval of the drainage plan, the applicant shall submit a proposed staged construction and inspection control schedule. This plan shall indicate a phase line for approval otherwise the construction and inspection control schedule will be for the entire drainage system.

(c) No stage work, related to the construction of stormwater management facilities, shall proceed until the next preceding stage of work, according to the sequence specified in the approved staged construction and inspection control schedule, is inspected and approved.

(c) The permittee shall notify the Stormwater Manager before commencing any work to implement the drainage plan and upon completion of the work.

(d) The permittee shall provide an "as-built" plan, addressing all requirements of Section 4.3 (Requirements for Final Plat Approval) of the Town of Elgin's zoning ordinance, certified by a registered professional to be submitted upon completing of the stormwater management facilities included in the drainage plan. The registered professional shall certify that:

(1) the facilities have been constructed as shown on the "as-built" plan, and

(2) the facilities meet the approved drainage plan and specifications or achieve the function for which they were designed.

(e) Acceptable "as-built" plans shall be submitted prior to:

(1) The use or occupancy of any commercial or industrial site.

(2) Final acceptance of any road into the Official Road Inventory.

(3) Release of any bond held by the Town.

(4) Approval and/or acceptance for recording of map, plat or drawing, the intent of which is to cause a division of a single parcel of land into two or more parcels.

(5) A final inspection shall be conducted by the Stormwater Manager upon completion of the work included in the approved drainage plan to determine if the completed work is constructed in accordance with the plan.

Sec. 3-16. Performance Bonds.

(a) A person is required to obtain a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Stormwater Manager, made payable to the Town of Elgin, prior to the issuance of any building and/or grading permit for construction of a development requiring a stormwater management facility, and in accordance with all applicable portions of Article 6 (Improvement Guarantees) of the Town of Elgin's zoning ordinance.

Secs. 3-17 – 3-20 Reserved.

DIVISION 4 - RESERVED

DIVISION 5 – INSPECTIONS

Sec. 5-1. Inspections.

(a) The Stormwater Manager, bearing proper credentials and identification, may enter and inspect all properties for regular inspections, periodic investigations, monitoring, observation measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance that the SWMP programs. The Stormwater Manager shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The inspector shall immediately report the refusal and the grounds to the Stormwater Manager. The Stormwater Manager shall promptly seek appropriate compulsory process.

(c) In the event that the Stormwater Manager or the designee reasonably believes that discharges from the property into the Town of Elgin MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(d) Inspection reports shall be maintained in a permanent file located in the Stormwater Manager's office.

Secs. 5-2 – 5-10 Reserved.

DIVISION 6 – ENFORCEMENT, PENALTIES, AND ABATEMENT

Sec. 6-1. Violations

Upon determination that a violation of any of the provisions of this Ordinance or the SWMP has occurred, the Stormwater Manager may give timely actual notice at the property where the violation has occurred or at the address of the permit holder and shall give written notice to the violator within 15 days. This notice shall specify: the nature of the violation, the proposed penalty, and the amount of time in which to correct deficiencies, if appropriate. It shall be sufficient notification to deliver the notice to the person to whom it is addressed, or to deposit a copy of such in the United States Mail, properly stamped, certified and addressed to the address used for tax purposes.

Sec. 6-2. Civil Penalties

Any person violating any provision of this ordinance shall be subject to a civil penalty of not more than one thousand dollars (\$1,000) for each violation. Each separate day of a violation, constitutes a new and separate violation.

Sec. 6-3. Additional Legal Measures

(a) Where the Town is fined and/or placed under a compliance schedule by the state or federal government for a violation(s) of its NPDES permit, and the Town can identify the person(s) who caused such violation(s) to occur, the Town may pass through the penalty and cost of compliance to that person(s).

(b) The Town Attorney may institute injunctive, mandamus or other appropriate action or proceedings at law or equity, including criminal conviction, for the enforcement of this Ordinance or to correct violations of this Ordinance, and any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

Sect. 6-4. Corrective Action

In the event a violation of this Ordinance has not been corrected within the applicable time period for correction, the Town of Elgin, or its contractor, may enter upon the lot or parcel of land and correct the violation, and the costs incurred as a result of such action (including inspection, administration, labor and equipment costs) shall be collected from the bond, if in place and sufficient to cover such costs, or shall become a lien upon the property and shall be collected in the same manner as Town taxes are collected.

Sec. 6-5. Stop Work

Any person who shall proceed with any work which requires a stormwater management plan hereunder without first submitting a plan and obtaining a permit, where applicable, shall have automatically placed on the subject property a stop work order, pay to the Stormwater Manager, a fee double the normal amount of applicable bond and fees, and payment of any other applicable penalties, prior to lifting of the stop work order. The stop work order may allow or require correction of violations, but no other project related activities. Any person in violation of a stop work order is subject to impoundment of any and all equipment on the property, and payment of all fees, bonds, penalties and payment of impoundment charges prior to retrieving such equipment.

Sec. 6-6. Permit Suspension and Revocation

A site grading permit may be suspended or revoked if one or more of the following violations have been committed:

- (a) violations of the conditions of the drainage plan approval
- (b) construction not in accordance with the letter or intent of the approved plans
- (c) non-compliance with correction notice(s) or stop work order(s), or
- (d) the existence of an immediate danger in a downstream area in the judgment of the Stormwater Manager.

Sec. 6-7 Criminal Penalties

In addition to any applicable civil penalties, any person who negligently, willfully or intentionally violates any provision of this Article shall be guilty of a misdemeanor and shall be punished within the jurisdictional limits of magistrate's court. Each day of a violation shall constitute a new and separate offense.

Secs. 6-8 – 6-10 Reserved.

DIVISION 7 – VARIANCES

Sec. 7-1. Variances

The Stormwater Manager may grant a variance from the requirements of this ordinance if exceptional circumstances applicable to a site exist such that strict adherence to the provisions of the ordinance will result in unnecessary hardship and will not fulfill the intent of the ordinance. In such cases the procedures and requirements of Section 1.5 (Variances/Appeals) of the Town of Elgin's zoning ordinance shall be adhered to.

Secs. 7-2 – 7-10 Reserved.

DIVISION 8 – APPEALS

Sec. 8-1. Appeals

Any person aggrieved by a decision or Notice of Violation of the Stormwater Manager may appeal the same by filing a written notice of appeal with the Stormwater Manager following the procedures noted in Section 1.5 (Variances/Appeals) of the Town of Elgin zoning ordinance.

Secs. 8-2 – 8-10 Reserved.

DIVISION 9 – CHARGES AND FEES

Sec. 9-1. Funding.

The Town of Elgin shall impose fees for processing stormwater management permit applications that are adequate to offset the costs of administering the permit review, inspection and monitoring costs. The Town of Elgin Administration shall periodically evaluate costs to administer the permit program and adjust the fees as required. Furthermore, in addition to all other charges, fees, and penalties, the Town of Elgin shall have the right to develop and impose a Stormwater Service Fee to fund implementation of this Stormwater Management and Water Quality Ordinance and its associated programs and plans. The initial fee schedule Exhibit "A".

Sec. 9-2. Connection to Conveyances.

The Stormwater Manager shall have the right to establish a schedule of appropriate fees for any person or property owner establishing a new discharge to Waters of the State within the Town of Elgin or to a wet weather conveyance. Such fee shall be payable as part of any permit application or submission, including plans reviews and field inspections, regulating the discharge of stormwater runoff. Permit fees shall be established on the basis of facility classes relating to the quantity and quality of permitted discharge.

Sec. 9-3. Plan Review

Costs associated with plan reviews of land development or construction plans other than those routinely performed by the Stormwater Manager as part of compliance reviews, or as described in Sec. 9-2 of this Ordinance, shall be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection.

Sec. 9-4. Field inspection.

Costs associated with field inspection of land development or construction activities other than those routinely performed by the Stormwater Manager as part of compliance monitoring, or as described in Sec. 9-2 of this Ordinance, shall be assessed a fee representing the cost in labor, equipment, and materials expended in the conduct of the inspection.

Appendix

Definitions

"Accidental Discharge" means a discharge prohibited by this article into the Town of Elgin's Stormwater System or receiving waters, which occurs by chance and without planning or consideration prior to occurrence.

"BMP Handbook" or "South Carolina DHEC Stormwater Management BMP Handbook" means the most recent South Carolina Department of Health and Environmental Control manual of design, performance, and review criteria for stormwater management practices.

"Clean Water Act" means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C §1251 et. seq.

"County" means Kershaw County, South Carolina.

"County Council" means the elected officials of Kershaw County, South Carolina.

"Design Storm" means a Soil Conservation Service Type II, 24 hour duration storm with a specified return interval or as otherwise specified by the Stormwater Manager.

"Development" or "Develop Land" means any of the following actions undertaken by any person, including, without limitation, any public or private individual or entity:

- (a) division of a lot, tract, or parcels or other divisions by plat or deed;
- (b) the construction, installation, or alteration of a structure, impervious surface or drainage facility;
- (c) clearing, scraping, grubbing or otherwise significantly disturbing the soil, vegetation, mud, sand or rock of a site; or
- (d) adding, removing, exposing, excavating, leveling, grading, digging, burrowing, dumping, piling, dredging, or otherwise disturbing the soil, vegetation, mud, sand or rock of a site.

"Town of Elgin's Stormwater System" means the conveyance or system of conveyances (including roads with drainage systems, highways, right-of-way, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, detention ponds, and other stormwater facilities) which is (a) owned or operated by the Town of Elgin ; (b) designed or used for collecting or conveying stormwater; (c) not a combined sewer system; (d) not part of a Publicly Owned Treatment Works (POTW); and (e) not privately owned.

"Illicit connection" means a connection to the Town of Elgin Stormwater System which results in a discharge that is not composed entirely of stormwater runoff except discharges pursuant to an NPDES permit (other than the NPDES permit for the Town of Elgin Stormwater System).

"Improper disposal" means any disposal other than through an illicit connection that results in an illicit discharge, including, but not limited to the disposal of used oil and toxic materials resulting from the improper management of such substances.

"Illicit discharge" means any activity which results in a discharge to the Town of Elgin Stormwater System or receiving waters that is not composed entirely of stormwater except (a) discharge pursuant to an NPDES permit (other than the NPDES for the Town of Elgin) and (b) discharges resulting from the firefighting activities.

"Maintenance" means any action necessary to preserve stormwater management facilities in proper working condition, in order to serve the intended purposes set forth in this ordinance and to prevent structural failure of such facilities.

"NPDES" means National Pollutant Discharge Elimination System. See "Clean Water Act"

"NPDES permit" means the NPDES permit for stormwater discharges issued to Town of Elgin pursuant to the Clean Water Act and the federal stormwater discharge regulations (40 CFR 122.26).

"Outfall" means the point where the Town of Elgin Stormwater System discharges to waters of the United States.

"Person" means any and all persons, natural or artificial and includes any individual, association, firm, corporation, business trust, estate, trust, partnership, two or more persons having a joint or common interest, state or federal or an agent or employee thereof, or any other legal entity.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

"Receiving waters" means the waters into which the Town of Elgin Stormwater System outfalls flow and which are located within the jurisdictional boundaries of the Town of Elgin and include, without limitation, the lakes, rivers, streams, ponds, wetlands, and groundwater of the Town of Elgin.

"Regulation" means any regulation, rule or requirement prepared by Town, and adopted by the Town of Elgin Council pursuant to this Article.

"SWMP" means the Town of Elgin Stormwater Management Program.

"Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater management" means the collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner to meet the objectives of this ordinance and its terms, including, but not limited to measures that control the increased volume and rate of stormwater runoff and water quality impacts caused by manmade changes to the land.

"Stormwater Management Program" or "SWMP" means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of stormwater and which is incorporated as part of the NPDES permit for Town of Elgin and as part of this Article.

"Stormwater Manager" means the person designated by the Town of Elgin Administrator to manage the stormwater program, or any of that person's duly authorized representatives or designees.

"Town" means Town of Elgin, South Carolina.

"Town Council" means the elected officials of the Town of Elgin, South Carolina.

"Variance" means the modification of the minimum stormwater management requirements contained in this Article and the Stormwater Management Program for specific circumstances where strict adhere of the requirements would result in unnecessary hardship and not fulfill the intent of this Ordinance.

"Water Quality" means those characteristics of stormwater runoff that relate to the physical, chemical, biological, or radiological integrity of water.

"Water Quantity" means those characteristics of stormwater runoff that relate to the rate and volume of the stormwater runoff.

DONE, RATIFIED, AND ADOPTED IN REGULAR MEETING OF THE TOWN OF ELGIN COUNCIL THIS 21st DAY OF August, 2007

TOWN OF ELGIN, SOUTH CAROLINA

ATTEST

Town Clerk

BY:

E. James, Its Mayor

First Reading:

Second Reading:

8-14-07

8-21-07

EXHIBIT "A"

Program Management fee	\$750.00
NPDES General Permit Fee	\$125.00
Inspection Fee	\$250.00
Revision Fee	\$250.00